

COMMISSIONERS APPROVAL

GRANDSTAFF 

ROKOSCH 

THOMPSON 

CHILCOTT 

DRISCOLL 

PLETTENBERG (Clerk & Recorder)

Date.....April 29, 2008

Members Present..... Commissioner Jim Rokosch,
Commissioner Alan Thompson, Commissioner Greg Chilcott and Commissioner
Kathleen Driscoll

Minutes: Beth Perkins

► Commissioner Grandstaff attended a tour of fuel thinning projects in the timbered land
with DNRC and the Forest Service.

► The Board met for a public meeting for Sunnyside Orchards 3, Block 9, Lot 15 AP
Minor Subdivision. Present were Planner Randy Fifrick, Representative Jake Kammerer,

Commissioner Rokosch called the meeting to order and requested any conflicts of interest
hearing none. He then requested the Planning Staff Report be read.

Randy presented the Staff Report as follows:

**SUNNYSIDE ORCHARDS 3, BLOCK 9, LOT 15, AP SUBDIVISION
FOUR-LOT FIRST MINOR SUBDIVISION**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: Randy Fifrick

**REVIEWED/
APPROVED BY:** John Lavey

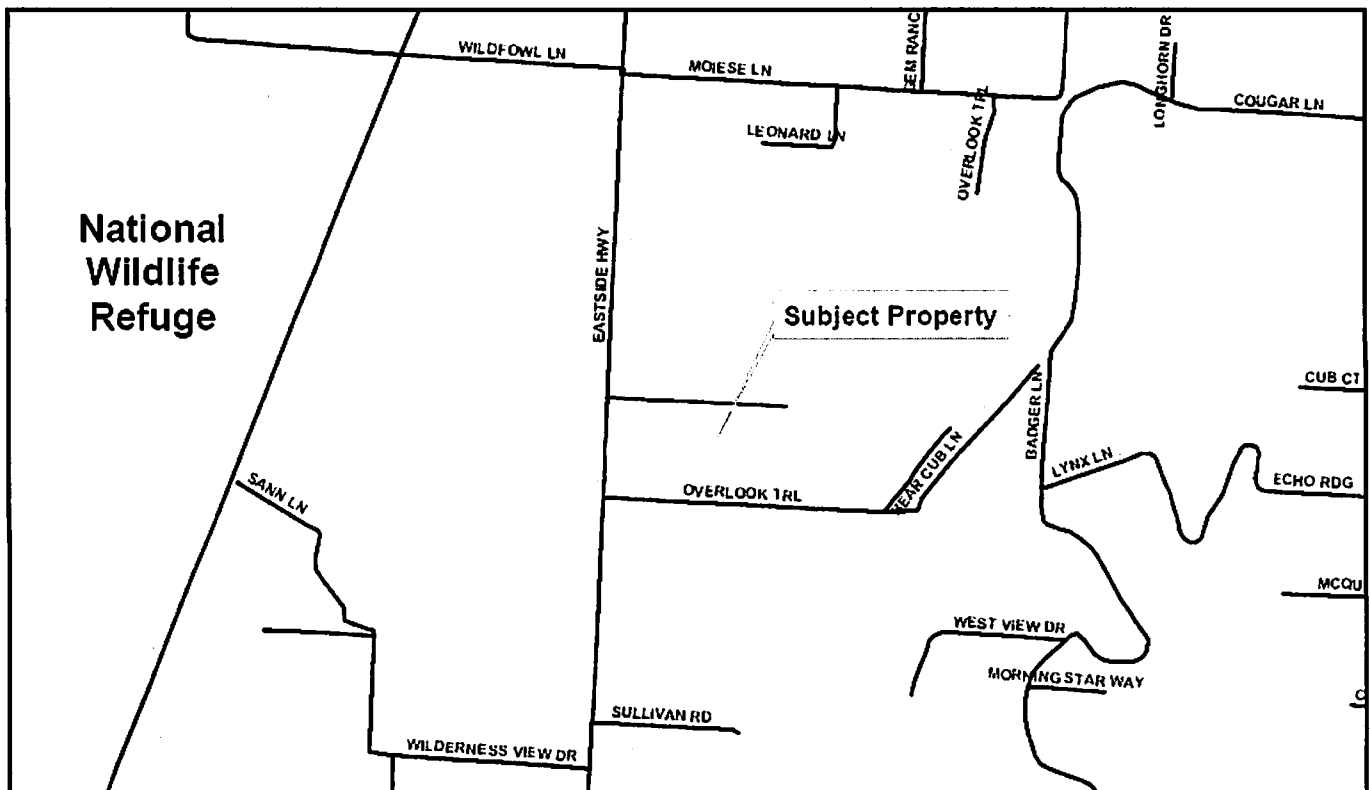
**PUBLIC HEARINGS/
MEETINGS:**

BCC Public Meeting: 9:00 a.m. April 29, 2008
Deadline for BCC action (35-working days): May 8, 2008

SUBDIVIDER/OWNER: Randy L Dahlquist
PO Box 585
Stevensville, MT 59870

REPRESENTATIVE: Kammerer Environmental Consulting
PO Box 134
Stevensville, MT 59870

LOCATION OF REQUEST: The property is located 3 miles northeast of Stevensville off of Eastside Highway. (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

A portion of the SW ¼ of Section 12, T9N, R20W,
P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The subdivision application was determined complete on March 20, 2008. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-8 of the staff report. **This subdivision is being reviewed under the subdivision regulations amended May 24, 2007.**

LEGAL NOTIFICATION:

Notice of the project was posted on the property and adjacent property owners were notified by regular mail postmarked April 14, 2008. No public comments have been received.

**DEVELOPMENT
PATTERN:**

Subject property	Residential
North	Residential
South	Residential
East	Agricultural
West	Agricultural

INTRODUCTION

The Sunnyside Orchards 3, Block 9, Lot 15, AP minor subdivision is a four-lot subdivision of 9.76 acres located north of Stevensville. The property is accessed off of Eastside Highway by an internal road, Beartooth Drive. Beartooth Drive will be constructed to meet Ravalli County Subdivision Regulations.

Staff recommends conditional approval of the subdivision proposal.

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS
APRIL 29, 2008

SUNNYSIDE ORCHARDS 3, BLOCK 9, LOT 15, AP
FOUR-LOT FIRST MINOR SUBDIVISION

RECOMMENDED MOTION

That the Sunnyside Orchards 3, Block 9, Lot 15, AP First Minor Subdivision be ***conditionally approved***, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Section 3-2-8(b)(v), Effects on Agriculture*)

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the Eastside Highway frontage of this subdivision, excepting the approved approach to Eastside Highway. All lots within this subdivision must use this approved approach. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety*)

Notification of Water Rights. Lots within this subdivision do not currently have the right to take irrigation water out of the infrastructure located within the subdivision. Taking water without a water right for irrigation purposes is illegal. (*Section 3-2-8(b)(v), Effects on Agricultural Water User Facilities*)

Notification of Proximity to Montana Rail-Link Railroad. This subdivision is located near the Montana Rail-Link railroad grade. Standard operation of the railroad can include elevated noise levels, exhaust fumes, and engine headlights, which may be objectionable to some people. In addition, there are inherent hazards associated with railroad operations. (*Section 3-2-8(b)(v), Effects on Public Health & Safety*)

Notification of Irrigation Facilities and Easement. Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water-right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. The filed subdivision plat shows the irrigation easements on the property. The

downstream water rights holders must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance is expressly prohibited. The downstream water right holders have the right to use the easements to maintain the ditches. (*Section 3-2-8(b)(v), Effects on Agricultural Water User Facilities*)

Notification of “very limited” Soils. Within this subdivision there are areas of the property identified as potentially having soils rated as very limited for roads and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the very limited soils are included as exhibits to this document. (The applicant shall include the exhibits as attachments) (*Section 3-2-8(b)(v), Effects on Public Health and Safety*)

Notification of Road Maintenance Agreement. The subdivision road, Beartooth Drive, is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A Road Maintenance Agreement for this road was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. (*Section 3-2-8(b)(v), Effects on Local Services*)

Notification of Proximity to a Potential Dam Inundation Area in the Event of a Catastrophic Failure of the Burnt Fork Dam. The western portion of the subdivision may be located within the dam inundation area for the Burnt Fork Dam. For more information please contact the Sunset Irrigation District (3221 Miller Hill Rd, Stevensville, MT 59870). A map of the probable extent of the inundation area is included on the plat. (*Section 3-2-8(b)(v), Effects on Public Health and Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, black bear, mountain lion, coyote, fox, skunk, raccoon and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners “live with wildlife.” Alternatively, see FWP’s web site at www.fwp.mt.gov. (*Section 3-2-8(b)(v), Effects on Natural Environment & Wildlife and Wildlife Habitat*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from elk and deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners must be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species electric fencing" designed to exclude wildlife from gardens and/or home areas.)
- c. **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, and other wildlife. If stored indoors, do not set garbage cans out until the morning of garbage pickup and bring them in no later than that evening.
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- e. **Birdseed in bird feeders** attracts bears. If used, bird feeders must: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.

- f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hooved game animals and the owner may also be held guilty (MCA 87-3-124).
- g. **Pet food and/or livestock feed** should be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets or livestock** do not leave food out overnight. Consider feeding pets indoors so that wild animals such as bear, skunk or magpie do not learn to associate food with your home.
- h. **Barbecue grills** should be stored indoors. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer and elk becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
- j. **Compost piles** can attract skunks and bears. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps.
- k. **Apiaries (bee hives)** could attract bears in this area. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- l. Purchasers of lots within this subdivision must recognize the subdivision is located near the Bitterroot River and its associated, extensive sloughs and wetlands where **lawful waterfowl hunting** and the associated discharge of shotguns could occur from early morning until sunset, and the season can run from September into January.
- m. These wildlife covenants cannot be changed or eliminated without the concurrence of the governing body (Ravalli County Commissioners).

Waiver of Protest to Creation of RSID/SID. Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision,

including related right-of-way, drainage structures, and traffic control signs.
(Section 3-2-8(b)(v), *Effects on Local Services*)

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org.
(Section 3-2-8(b)(v), *Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety*)

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Three Mile Rural Fire District has adopted the Fire Protection Standards, which requires lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. (Section 3-2-8(b)(v), *Effects on Local Services and Public Health & Safety*)

Access Requirements for Lots within this Subdivision. The Three Mile Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Three Mile Rural Fire District for further information. (Section 3-2-8(b)(v), *Effects on Local Services and Public Health & Safety*)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the Ravalli County Environmental Health Department for further information.
(Section 3-2-8(b)(v), *Effects on Public Health & Safety*)

Wood Stoves. The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-

certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. (*Section 3-2-8(b)(v), Effects on the Natural Environment*)

Control of Noxious Weeds. A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (*Section 3-2-8(b)(v), Effects on Agriculture and Natural Environment*)

Archeological Resources. If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. (*Section 3-2-8(b)(v), RCSR, Effects on Natural Environment*)

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. (*Effects on all six criteria*)

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. (*Section 3-2-8(b)(v), Effects on Local Services*)
4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety*)
5. Prior to final plat approval, the subdividers shall provide a letter from the Three Mile Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been

made to the Three Mile Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*

6. The following statement shall be shown on the final plat: "The Three Mile Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Three Mile Rural Fire District for further information". *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*
7. The subdivider shall submit a letter or receipt from the Stevensville School District stating that they have received an (amount)-per-new-lot contribution prior to final plat approval. *(Section 3-2-8(b)(v), Effects on Local Services)*
8. The subdivider shall submit an (amount)-per-new-lot contribution made prior to final plat approval to an account for Public Safety (Sheriff, E-911, OEM) to mitigate impacts on local services and public health and safety. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health and Safety)*
9. As shown on the preliminary plat, the final plat shall show a no-ingress/egress zone along the Eastside Highway frontage of the subdivision. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*
10. The subdivider shall submit a signed agreement stating that they will be party to the existing Road Maintenance Agreement for Beartooth Drive, Document # 562479. *(Section 3-2-8(b)(v), Effects on Local Services)*
11. The subdivider shall submit a signed and notarized agreement that stipulates that future owners of lots within this subdivision shall be solely responsible for the maintenance of storm water drainage facilities. *(Section 3-2-8(b)(v), Effects on Local Services)*
12. The subdivider shall place an encumbrance on the final plat that stipulates an (amount)-per-new-lot contribution shall be contributed to the Open Lands Program upon first conveyance, including lease or rent, of all new lots. *(Section 3-2-8(b)(v), Effects on Agriculture)*

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.

1. A statement from the project surveyor or engineer outlining how each final plat requirement or condition of approval has been satisfied shall be submitted with the final plat submittal.
2. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003), shall be submitted prior to final plat approval. One paper copy may be submitted for the first proofing. The final plat shall conform to the preliminary plat decision. The following features are required on the Final Plat:
 - A. Project name
 - B. Title block

- C. Certificate of registered owner – notarized
 - D. Certificate of registered land surveyor with seal
 - E. Certificate of governing body approval
 - F. Signature block for Clerk and Recorder, preferably in lower right hand corner
 - G. Certificate of public dedication
 - H. Certificate of park cash-in-lieu payment
 - I. Other certifications as appropriate
 - J. North arrow
 - K. Graphic scale
 - L. Legal description
 - M. Property boundaries (bearings, lengths, curve data)
 - N. Pertinent section corners and subdivision corners
 - O. Names of adjoining subdivisions/certificates of survey
 - P. Monuments found
 - Q. Witness monuments
 - R. Acreage of subject parcel
 - S. Curve data (radius, arc length, notation of non-tangent curves)
 - T. Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
 - U. Lots and blocks designated by number (dimensions/acreage)
 - V. Easements/rights of ways (location, width, purpose, ownership)
 - W. No-ingress/egress zones
 - X. Irrigation canals including diversion point(s), etc.
 - Y. Existing and new roads (names, ownership, etc.)
 - Z. No ingress/egress zone
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
 4. Any variance decisions shall be submitted with the final plat submittal.
 5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
 6. The final plat review fee shall be submitted with the final plat submittal.
 7. A Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
 8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
 9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
 10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
 11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.

12. Road and driveway approach and encroachment permits shall be submitted with the final plat submittal or letter from MDT stating that a new approach permit is not required.
13. Evidence of a Ravalli County-approved road name petition(s) for each new road shall be submitted with the final plat submittal.
14. Engineering plans and specifications for all central water and sewer systems and any other infrastructure improvements requiring engineered plans shall be submitted with the final plat submittal.
15. Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal.
16. Road certification(s) shall be submitted with the final plat submittal.
17. Utility availability certification(s) shall be submitted with the final plat submittal.
18. Road maintenance agreement(s), signed and notarized, shall be submitted with the final plat submittal.
19. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
20. A copy of the letter sent to the appropriate school district(s) stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
21. Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations shall be submitted with the final plat submittal.
22. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required, shall be submitted with the final plat submittal. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2.)

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

A. Provides easements for the location and installation of any planned utilities.

Findings of Fact

1. Existing and proposed utility easements are located along Eastside Highway and Beartooth Drive. (Application)
2. Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)

Conclusion of Law

The proposed subdivision application provides for utility easements.

B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.

Findings of Fact

1. The subject property is accessed by Eastside Highway and Beartooth Drive. (Application)
2. Eastside Highway is listed as a state-maintained road. (GIS)
3. Beartooth Drive will provide legal and physical access to all lots in the subdivision off of Eastside Highway. (Plat)
4. The subdivider has attained an approach permit from the Montana Department of Transportation (MDT) for Beartooth Drive off of Eastside Highway on March 2, 2005. (Final Plat Requirement 12)
5. MDT is not requiring a new permit for the proposed additional 4 residential lots. (Exhibit A-5)
6. Beartooth Drive is an existing non-county maintained road that does not meet county standards. The subdivider is required and is proposing to bring Beartooth Drive to County standards. (Application, Requirement 16)

Conclusion of Law

Legal and physical access is adequate for this site.

- C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

Findings of Fact

1. The applicant is proposing to reconstruct Beartooth Drive to provide access to all lots within the subdivision. (Application)
2. The applicant is required to submit evidence that the improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval (Final Plat Requirements 1 and 16).

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact

1. This property has no water rights. (Application)
2. Condition 1 clarifies the disposition of water rights on and within this property.

Conclusion of Law

With the mitigating conditions of approval, this requirement has been met.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact

1. An irrigation pipeline runs along the east property line of proposed Lot 15D. (Application, Plat)
2. There is an existing irrigation easement that centers on the pipeline that runs along the east property line of proposed Lot 15D. (Plat)
3. *To ensure that the appropriate irrigation easements are in place and future owners are aware they cannot plant or build within the easements, the following requirements and conditions shall be met prior to final plat approval:*

- *A notification of the irrigation easement shall be included in the notifications document. (Condition 1)*
- *Section 3-4-4(a)(ii)(V) requires that the irrigation easement be shown on the final plat.*

Conclusion of Law

With the requirements and conditions of final plat approval, this prerequisite has been met.

F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.

Findings of Fact

1. The application states that 0.44 acres are required to meet the parkland dedication requirement. (Application)
2. All lots within the subdivision are proposed for residential use. (Application)
3. The applicant proposed cash-in-lieu of parkland dedication. (Application)
4. In a letter dated June, 14, 2007, the Ravalli County Parks Board recommends cash-in-lieu of land dedication for this subdivision proposal. (Exhibit A-1)
5. In accordance with 76-3-621(4), MCA, "the governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks, playgrounds and giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation." (See also Section 6-1-5(e), RCRS)

Conclusion of Law

The applicant has proposed parkland dedication that meets State Law and is suitable to the Park Board

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

A. These regulations, including, but not limited to, the standards set forth in Chapter 5.

Findings of Fact

1. The lot layout as indicated on the preliminary plat appears to meet the design standards in Chapter 5 of the RCSR.

2. This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The procedures for the application and review of this proposed subdivision have been followed.

B. Applicable zoning regulations.

Findings of Fact

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2193). The application complies with Resolution 2193.
2. The property is not within one of the voluntary zoning districts in Ravalli County. (RC GIS Data)

Conclusion of Law

This proposal appears to comply with existing zoning regulations.

C. Existing covenants and/or deed restrictions.

Finding of Fact

1. There are existing covenants on the property. (RC Clerk & Recorder's Office, Application)
2. Covenants relevant to this proposal state no residence shall be erected on any lot which is less than 2.0 acres in area and discuss permitted uses including: allowing light industry and local business and prohibiting mobile homes and junkyards.
3. The applicant's proposal meets the existing covenants on the property. (Application)

Conclusion of Law

The subdivision proposal meets the existing covenants on the property.

D. Other applicable regulations.

Findings of Fact

1. Following are regulations that may apply to this subdivision:
 - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
 - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli

- County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. The applicants were made aware of the applicable regulations at the pre-application conference held on September 20, 2006. (Application)
 3. Prior to final plat approval, the applicants are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)

Conclusion of Law

The application appears to meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed minor subdivision on 9.76 acres will result in four lots that range in size from 2.00 acres to 3.58 acres. The property is located approximately three miles northeast of the community of Stevensville. (Application)
2. This parcel is classified for tax purposes as residential rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
3. Parcels adjacent to the subject property are classified for tax purposes as agricultural rural, vacant land rural and residential rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
4. The new soils data available from the NRCS Web Soil Survey shows there are approximately two acres of prime farmland if irrigated on Lot 15A. The rest of the property is classified as farmland of local importance. (Application)
5. The applicants submitted a Ravalli County Subdivision Ground Disturbance and Noxious Weed Management Plan that stated common tansy was found scattered throughout the property and along Beartooth Drive. (Application)
6. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
7. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
 - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring*

homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)

- The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
- A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
- The subdivider shall place an encumbrance on the final plat that stipulates an (amount)-per-new-lot contribution shall be contributed to the Open Lands Program upon first conveyance, including lease or rent, of all new lots. (Condition 12)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, the impacts of the subdivision on agriculture will be reduced.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. An irrigation pipeline runs along the east property line of proposed Lot 15D. (Application, Plat)
2. There is an irrigation easement that centers on the pipeline. (Plat)
3. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agricultural water user facilities:*
 - A notification of the irrigation easement shall be included in the notifications document. (Condition 1)*
 - RCSR Section 3-4-4(a)(ii)(V) requires that the irrigation easement be shown on the final plat.*
 - A notification that no water rights exist for this subdivision shall be included in the notifications document. (Condition 1)*

Conclusion of Law

With the conditions and requirements of final plat approval, impacts to agricultural water user facilities will be minimized.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire Department

1. The subdivision is located within the Three Mile Rural Fire District. (Application)
2. Notification letters were sent to the Three Mile Rural Fire District requesting comments on June 4, 2007 and April 14, 2008, but no comments have been received from the Fire District. (Subdivision File)

3. Stevensville Rural Fire District is the secondary responder to this area and was also notified. In an email dated April 12, 2008, Bill Perrin stated that generally they have no problems with coverage in this area. (Exhibit A-8)
4. The Three Mile Rural Fire District has adopted the Fire Protection Standards, which address access, posting of addresses, and water supply requirements. (Exhibit A-2)
5. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
 - *Provisions in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
 - *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Conditions 2 and 4)*
 - *Prior to final plat approval, the subdividers shall provide a letter from the Three Mile Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Three Mile Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
 - *The following statement shall be shown on the final plat: "The Three Mile Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Three Mile Rural Fire District for further information". (Condition 6)*

School District

6. With this subdivision, it is estimated that approximately 1.5 school-aged children will be added to the Stevensville School District, assuming an average of 0.5 children per household (Census 2000, Application).
7. Notification letters were sent to the Stevensville School District requesting comments on June 4, 2007 and April 14, 2008, but no comments have been received from the School District. (Subdivision File)
8. Ernie Jean, County Superintendent, sent a letter to the Ravalli County Commissioners stating that Ravalli County Educational Transportation Committee recently adopted a resolution requesting that the Commissioners establish a requirement that the developers of each subdivision establish a shelter at a bus stop and a possible turnout, or turnaround if appropriate, at each subdivision entrance that is off a County owned and maintained road. (Exhibit A-3)
9. Considering that Eastside Highway is a State-maintained road, Beartooth Drive is privately-maintained road, and the number and size of the lots of the proposal, the Planning Department determined that a bus turnout is not necessary for this subdivision. (Staff Determination)

10. County School Superintendent, Ernie Jean, has provided the Planning Department the Budget Per Pupil/Tax Levy Per Pupil information for Ravalli County. According to the document, the budget per pupil would be \$8,020 for the Stevensville School District (averaging Stevensville HS and Stevensville Elem). The tax levy per pupil, excluding capital, would be \$2,558.50 for the Stevensville School District (averaging Stevensville HS and Stevensville Elem). (Exhibit A-4)
11. *To mitigate impacts on the School District, the applicant shall submit a letter or receipt from the Stevensville School District stating that they have received an (amount) per-lot contribution prior to final plat approval. (Condition 7 and Final Plat Requirement 20)*

Roads

12. There are (4) four proposed residential lots within this subdivision. (Application)
13. The property will be accessed off of Eastside Highway and the internal road, Beartooth Drive.
14. Eastside Highway, a State-maintained road, will provide access to the subdivision. (Application)
15. Beartooth Drive is an existing non-county maintained road that does not meet county road standards. It is located within an existing 60-foot wide easement, as shown on COS #123456 (Application)
16. The applicant is required to build the subdivision road, Beartooth Drive, to the standards as outlined in the Ravalli County Subdivision Regulations. There are no variance requests associated with the subdivision. (Application)
17. Preliminary road plans for Beartooth Drive were approved February 26, 2008 by Ravalli County's consulting engineer. (Subdivision File)
18. The approach for Beartooth Drive was approved March 2, 2005 by MDT. (Application)
19. MDT is not requiring a new permit for the proposed additional four residential lots. (Exhibit A-5)
20. An existing Homeowner Association and Road Maintenance Agreement, Document # 562479, has been filed with the Ravalli County Clerk & Recorder's Office. This document allows other parcels, including this property, to join as members of the agreement without the consent of current members. (Application)
21. The existing road maintenance agreement meets current county standards with the exception of a provision for the maintenance of storm water drainage facilities. (Application)
22. The applicant has included a "Supplement to Homeowner Association and Road Maintenance Agreement #562479" in which the subdivider consents to be a party to the existing Road Maintenance Agreement for Beartooth Drive. (Application)
23. The applicant has included an "Amendment to Supplement to Homeowner Association and Road Maintenance Agreement" which would make property owners within this subdivision solely responsible for the maintenance of storm water drainage facilities. (Application)
24. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*
 - *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ shall be submitted prior to final plat approval, if applicable. (Final Plat Requirement 10)*

- *The notifications document filed with the final plat shall include a statement notifying lot owners of the no ingress/egress restriction. (Condition 1)*
- *The notifications document filed with the final plat shall include a statement notifying lot owners of the road maintenance agreement. (Condition 1)*
- *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)*
- *The final plat shall show a no-ingress/egress zone along the Eastside Highway frontage of the subdivision, excepting the approach, as approved by the Montana Department of Transportation. (Condition 9 and Final Plat Requirement 2)*
- *The subdivider shall submit a signed agreement in which future property owners of lots within this subdivision will be a party to the existing Road Maintenance Agreement for Beartooth Drive, Document # 562479. (Condition 10)*
- *The subdivider shall submit a signed and notarized agreement in which the owners of lots within this subdivision be solely responsible for the maintenance of storm water drainage facilities. (Condition 11)*

Public Safety

25. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Application)
26. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on June 4, 2007 and April 14, 2008, but no comments have been received from the Sheriff's Office. (Subdivision File)
27. *To mitigate impacts on local services, the subdivider shall submit an (amount)-per-lot contribution made prior to final plat into an account for Public Safety (Sheriff, E-911, OEM) to mitigate impacts on local services and public health and safety. (Condition 8)*

Emergency Services

28. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department. Marcus Daly Hospital was contacted on June 4, 2007 and April 14, 2008 but no comments have been received to date. (Application)
29. *To mitigate impacts on emergency services, the subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*

Water and Wastewater Districts

30. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Application)

Solid Waste Services

31. Bitterroot Disposal provides service to this site. (Application)
32. Notification letters were sent to Bitterroot Disposal requesting comments on June 4, 2007 and April 14, 2008, but no comments have been received. (Subdivision File)

Utilities

33. Existing and proposed utility easements are located along Eastside Highway and Beartooth Drive. (Application)
34. The proposed subdivision will be served by Northwestern Energy Company and Qwest Communications. (Application)
35. Notification letters were sent to Northwestern Energy Company and Qwest Communications requesting comments on June 4, 2007 and April 14, 2008, but no comments have been received by the company. (Subdivision File)
36. *The following requirements will mitigate impacts of the subdivision on local utilities:*
 - *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
 - *The applicant shall submit a utility availability certification from Northwestern Power Company and Qwest Communications prior to final plat approval. (Final Plat Requirement 17)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Air Quality

1. This proposed subdivision would add three new homes to an area of existing medium density development north of Stevensville. (Plat) (Site Visit)
2. The Montana Department of Environmental Quality (DEQ) has reviewed the PM_{2.5} (particulate matter ≤ 2.5 micron) data collected in 2007 and incorporated it into the PM_{2.5} dataset from the previous three years (2004-2006). As part of that analysis, DEQ identified several communities that continue to experience poor air quality during certain time periods each year. Those communities are located in the following counties: Lincoln, Missoula, Silver Bow, Ravalli, Gallatin, Lewis & Clark, Flathead, Sanders, Yellowstone and Cascade. (Exhibit A-6)
3. *To mitigate impacts on air quality, the covenants shall include a recommendation that EPA-certified wood stoves should be installed to reduce air pollution and that wood burning stoves should not be used as the primary heat source. (Condition 2)*

Ground Water Quality

4. The applicants are proposing individual wells and wastewater facilities. (Application)
5. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided

documentation indicating that they have received adequate information for local subdivision review to occur. (Application)

6. *The applicant is required to submit documentation from the RCEH stating their approval of the subdivision prior to final approval. (Final Plat Requirement 9)*

Light Pollution

7. The addition of three new residential homes in an area that currently has medium density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)
8. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

Vegetation

9. The applicants submitted a Ravalli County Subdivision Ground Disturbance and Noxious Weed Management Plan that stated common tansy was found scattered throughout the property and along Beartooth Drive. (Application)
10. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (MCA 7-22-2152)
11. The Montana Natural Heritage Program found that there were no plant species of concern within the same sections as the subject property (Application).
12. *To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2 and Final Plat Requirement 11)*

Noise Levels

13. In a letter dated June 21, 2007, the Montana Fish, Wildlife, and Parks (FWP) recommend a covenant to address the following issue: This subdivision is about one-quarter mile from the extensive riparian areas associated with the Bitterroot River and its slough, where waterfowl hunting could be expected to occur, and there is potential for conflict between the noise from hunting and residents of this subdivision.
14. Due to the proximity of this proposed subdivision to the Lee Metcalf Refuge, there is a possibility of conflict between waterfowl hunters and the subdivision, where the sound of the lawful discharge of shotguns may create some concern by the residents. Waterfowl hunting occurs from early morning until sunset, and the season can run from September into January. In a letter dated June 21, 2007, FWP recommend a covenant to address the issue. (Exhibit A-7)

15. *To mitigate impacts of the subdivision being in close proximity to noise from hunting along the Bitterroot River, a notification of the potential noise shall be included in the covenants. (Condition 2)*

Historical/Archeological Sites

16. The application states that there are no known sites of historical significance on the property. (Application)
17. *The covenants shall include an archeological resources section. (Condition 2)*

Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

In a letter received June 21, 2007, FWP stated that this property has an elevated probability of human/wildlife conflict and recommended including "living with wildlife" covenants. (Exhibit A-7)

FWP stated that wildlife such as white-tailed deer, fox and skunk are found in this area, as well as an occasional black bear and possible mountain lion. Numerous small mammal and bird species (including waterfowl and birds of prey) can be found nearby, as well as nesting birds. (Exhibit A-7)

The property is not located within big-game winter range. (FWP Data)

According to the Montana Natural Heritage Program, Western Spotted Skunk and Lewis's Woodpecker were identified as species of concern as they have been known to exist in the same section as the proposed subdivision. The subdivider requested and received a waiver from the requirement to submit a sensitive species report because of lack of habitat on the property and negligible impacts for all species. (Application, Subdivision File)

To mitigate impacts on wildlife and wildlife habitat, the following conditions shall be met:

- *The covenants shall include a living with wildlife section. (Condition 2)*
- *The covenants shall include a provision recommending full cut-off lighting. (Condition 2)*

Conclusion of Law:

With the mitigating conditions of approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. Access is proposed off Eastside Highway and Beartooth Drive. (Application)
2. MDT is not requiring a new permit for the proposed additional four residential lots. (Exhibit A-5)
3. *The requirements and conditions listed under Roads in Criterion 3 will mitigate the impacts of the subdivision on traffic safety.*

Emergency Vehicle Access and Response Time

4. The proposed subdivision will be served by the Three Mile Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. (Application)
5. *The requirements and conditions listed under Fire District, Law Enforcement, Emergency Services, and Roads in Criterion 3 will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

Water and Wastewater

6. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Application)
7. *To mitigate effects on water and wastewater, the DEQ Certificate of Subdivision Approval, RCEH approval, or subdivision review exemption from RCEH shall be submitted with the final plat submittal. (Final Plat Requirement 9)*

Natural and Man-Made Hazards

8. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
9. This subdivision is located 0.35 miles from the Montana Rail-Link Railroad. (RC GIS)
10. The addition of three new residential homes in an area that currently has medium density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)
11. Within this subdivision there are areas of the property identified as potentially having soils rated as very limited for roads and building sites.
12. The western portion of the subdivision may be located within the dam inundation area for the Burnt Fork Dam. (RC GIS)
13. *To mitigate possible impacts on public health and safety, the following conditions shall be met:*
 - *A notification of the proximity to the Montana Rail-Link Railroad shall be included in the notifications document. (Condition 1)*
 - *A notification of very limited soils shall be included in the notification document. (Condition 1)*
 - *A notification of proximity to a potential dam inundation area in the event of a catastrophic failure of the Burnt Fork Dam shall be included in the notification document. (Condition 1)*
 - *The covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
 - *The covenants shall include a statement regarding radon exposure. (Condition 2)*

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety

Commissioner Rokosch opened public comment.

Jake stated they agree with the Staff Report. On Lot 15A, there is approximately 2 acres of prime farmland if irrigated; however, there are no irrigation rights to irrigate it. He stated they are willing to make a contribution payable upon first conveyance.

Commissioner Rokosch closed public comment and opened Board deliberations.

Criterion One: Effects on Agriculture: Jake stated they are willing to offer a contribution of \$500 payable upon first conveyance to mitigate the effects on agriculture. Jake gave the history of the property with the water rights to the Board.

Commissioner Thompson questioned the ditch easement. Jake replied it is a pipe easement with two points of diversion. Commissioner Rokosch questioned on Lot 15A, if there was any consideration of the house footprint that would avoid the prime farmland soils as well as the severe soils for the septic systems. Jake replied when they started this project the 1 per 2 was not in place. There was ground water monitoring to see if the groundwater was high. When zoning is done, the owner is planning on subdividing the largest lot again because it is big enough for two homes. There is already a septic system location that is farther back than required. Commissioner Driscoll asked about agricultural land on both sides of the property. Jake replied the buffalo are across the street and it is considerably wetter. You will never see it developed.

Commissioner Rokosch requested any further comments, hearing none.

Commissioner Chilcott, Commissioner Thompson and Commissioner Driscoll voted sufficiently mitigated. Commissioner Rokosch voted non-sufficient due to farmland of local importance.

Criterion Two: Effects on Agricultural Water User Facilities: Commissioner Rokosch questioned the pipeline. Jake replied it is a 25 foot wide ditch easement. Commissioner Rokosch requested any further comments, hearing none. **All Commissioners voted sufficiently mitigated.**

Criterion Three: Effects on Local Services: Jake stated the offer is \$500 per lot payable upon final plat approval for the Three Mile Fire District.

Commissioner Rokosch discussed the School Contribution offer of \$250 per lot. Jake replied the owner did not give a lot of room for negotiations of the contributions. He stated he could go as high as \$750 per new lot and that is it. Board discussion followed regarding when the contribution be payable. Jake offered the **School contribution of \$750 per new lot to be payable upon first conveyance with CPI adjustment.** Commissioner Rokosch commented on student pick up for a bus turn out and shelter. Commissioner Thompson replied on Condition 9 in the Staff Report it indicates since Eastside Highway is a state maintained road and Beartooth Drive is

privately maintained road, and the number of lots and size, Planning Department determined a bus turn out is not necessary. Commissioner Rokosch stated there is a concern for safety and will revisit the question with the Transportation subcommittee. Commissioner Chilcott asked Jake if the owner would build a bus shelter. Jake replied yes he would on Lot 15A. Board discussion followed regarding a walk/bike path on Beartooth Drive. Jake explained Beartooth Drive is a private road and does not have a public easement. Further discussion followed regarding offsetting the construction of the road to allow a walk path. Commissioner Rokosch requested an additional easement to allow a walk path. Randy stated the other subdivisions that moved the road started with a bare road, nothing constructed. This is an existing road that will be upgraded and it has a 60 foot easement. Commissioner Thompson stated this is a dead end cul de sac road. Jake asked if the pathway could be in the 60 foot easement. Commissioner Thompson stated kids are going to skateboard and play stick hockey in the street whether or not you put in a walk path. This street will not have cars driving on it above 20 miles per hour. Commissioner Chilcott stated walking paths are a good idea however in this particular case, he does not believe it would be fair to the owner. Commissioner Thompson stated on his road which is similar to this, kids walk to the bus stop and play in the street. People walk to their mailboxes. He has a hard time believing anything would be built farther to the east increasing traffic. Jake stated he has another client further up the road and he will bring it to his attention however, in this case, it is not appropriate. Commissioner Rokosch stated the reality of it is the Board now has an opportunity to address it. Commissioner Chilcott asked if the owner would be willing to create a 5 foot path in the easement. Jake replied he does not know because it was not discussed. **After discussion, it was determined Jake would contact the owner and see what is offered for a walk path.**

Commissioner Rokosch asked Jake if there was a contribution offered for Public Safety impacts. Jake replied yes they are willing to offer \$500 per new lot payable upon first conveyance. Commissioner Rokosch commented for the record, that DEQ make note of the proximity of the Refuge and concern of the level of treatment with conventional systems with nitrates and phosphorus in the system. He would like them to look at the possibility of level two treatment systems. Jake replied level two systems would not kick in with the current level of nitrates. It would not make a difference. Commissioner Driscoll asked if the wells are going past the clay layer in the aquifer. Jake replied these wells are valley floor and they are shallow. There is no need to go past the clay layer with the amount of water available. Jake stated all wells must be cased to the level of 25 feet and it is more than sufficient within the perimeters. There is no clay layer to get at inexpensively and what the Commissioners are asking for is not needed. Commissioner Driscoll expressed her concern with pollution. Jake replied 1500 feet of volume below the aquifer would filter the pollutants.

Commissioner Driscoll, Commissioner Chilcott and Commissioner Thompson voted sufficiently mitigated. Commissioner Rokosch voted non-sufficiently mitigated due to mitigation of contribution for school district.

Criterion Four: Effects on Natural Environment:

All Commissioners voted sufficiently mitigated.

Criterion Five: Effects on Wildlife and Wildlife Habitat:

All Commissioners voted sufficiently mitigated.

Criterion Six: Effects on Public Health and Safety:

Further discussion followed regarding the walk path. Randy stated to be within ADA standards it has to be a minimum of 36 inches wide and be a firm, packed surface. Randy requested clarification of the Board for the request of the walk path in compliance with ADA. Commissioner Thompson stated he cannot imagine a 4 lot, 1000 foot road to require a walk path. He understands the traffic speed on Eastside Highway however for this road he does not agree with the walk path being contingent upon approval. Commissioner Chilcott stated if the developer would like to do it, then great but the Board is talking about a 1000 foot road. He agrees with Commissioner Thompson. He does not see this as something he would feel comfortable mandating. Commissioner Rokosch requested moving on with the subdivision.

All Commissioners voted sufficiently mitigated.

Commissioner Rokosch requested a decision for either a motion or wait for a status from the owner on the walk path. Jake asked the Board if his client agreed to a **four foot wide compacted gravel surface walkway on his property ending at the bus shelter**, would it mitigate the issue. Commissioner Driscoll replied yes it would for her. Jake stated he would agree to it.

Commissioner Chilcott made a motion to conditionally approve Sunnyside Orchards 3, Block 9, Lot 15 AP Subdivision based on the findings of fact and conclusions of law in the Staff Report and as mitigated here today.

Commissioner Driscoll seconded the motion. Commissioner Thompson, Commissioner Chilcott, Commissioner Driscoll voted 'aye'. Commissioner Rokosch voted 'nay'. Motion carried.